

DIRECTIVE

JOB TRAINING PARTNERSHIP ACT

Number: D98-20

Date: June 24, 1999
69:114:va:2851

TO: SERVICE DELIVERY AREA ADMINISTRATORS
PRIVATE INDUSTRY COUNCIL CHAIRPERSONS
JTPD PROGRAM OPERATORS
EDD JOB SERVICE OFFICE MANAGERS
JTPD STAFF

SUBJECT: SYETP 1999 FEDERAL AND STATE GUIDANCE

EXECUTIVE SUMMARY:

Purpose:

This directive provides combined state and federal guidance regarding Service Delivery Area (SDA) implementation of the 1999 Summer Youth Employment and Training Program (SYETP).

Scope:

This directive applies to Title II-B of the Job Training Partnership Act (JTPA) and supplements federal guidance found in Department of Labor (DOL) Training and Employment Guidance Letter (TEGL) 14-98 (attached). Furthermore, this directive requires SDAs to implement those portions of the JTPA Final Rule as they specifically apply to the SYETP (Section 628.700, et al.).

Effective Date:

This directive is effective upon date of issue.

REFERENCES:

- JTPA Sections 251-256
- Title 20 Code of Federal Regulations (CFR) Sections 627.235(c) and 628.700-628.710
- California Unemployment Insurance Code (CUIC), Division 8 (Family Economic Security Act [FESA]), Chapter 2, Section 15012(c)
- DOL TEGL 14-98, Subject: Program Guidance for the Calendar Year 1999 Summer Youth Employment and Training Program (March 26, 1999)
- DOL TEGL 7-95, Change 1, Subject: Job Training Partnership Act (JTPA) Intertitle Transfers of Funds (July 31, 1996)
- DOL Summer Youth Programs Internet home page at:
<http://www.wdsc.org/summeryouth/>

- JTPA Directive D97-7, Subject: Eligibility Determination and Verification for Titles II, III, and IV-C (October 7, 1997)
- JTPA Directive D97-6, Subject: Procurement (September 11, 1997)
- JTPA Directive D96-18, Subject: JTPA Fund Transfers (February 18, 1997)
- JTPA Directive D95-24, Subject: Payments to Participants, Supportive Services, and Financial Assistance (December 20, 1995)

STATE-IMPOSED REQUIREMENTS:

This directive contains some state-imposed requirements. These requirements are indicated by ***bold, italic*** type.

FILING INSTRUCTIONS:

This directive finalizes Draft Directive DD-17, issued for comment on May 27, 1998. The guidance in this directive pertains to the 1999 SYETP only. Retain this directive until further notice.

BACKGROUND:

The SYETP, funded under Title II-B of JTPA, provides jobs during the summer months for economically disadvantaged youth ages 14-21. The SYETP has traditionally emphasized the inextricable link between education and the world of work. The act codified program design elements of Title II-B such as academic enrichment and educational linkages, the need for basic education and preemployment training, and the integration of work and learning into summer programs.

In DOL's vision of the SYETP, new entrants to the labor force with limited job histories: (1) build and refine a strong work foundation, employment competencies, and experience the discipline of work; and (2) gain an appreciation of the connection between work and learning which is critical to a long-term attachment to, and success in, a rapidly changing labor market.

POLICY AND PROCEDURES:

Months of Operation:

While Section 254 of JTPA provides that SYETP can operate only during the summer months or in the equivalent vacation period where there is a year-round school system, DOL indicates that intake and planning may occur before school ends. Youth may be concurrently enrolled in Title II-B and Title II-C; however, employment in SYETP may not start before the beginning of the school vacation period. When the SDA wishes to serve out-of-school youth prior to the local school vacation period, the SDA may choose among the following approaches:

- Operate an employment program for out-of-school youth before the end of the school year under Title II-C, using existing Title II-C funds or transferred funds from Title II-A or Title II-B;
- Develop a program of concurrent enrollment (Title II-B and Title II-C); and/or,

- Use Wagner-Peyser or locally funded staff to do job development and placement for this group before school ends.

Procurement:

The SDAs must comply with all procurement guidance provided by JTPA, the regulations, and ***JTPA Directive D97-6: Procurement***. When assessing bids for services, SDAs must consider past performance, ability to perform, and the reasonableness of costs. The SDA must fully document the decision and provide justification in the procurement file.

Transfers:

The DOL TEGL 14-98 allows for the transfer of unrestricted amounts of Program Year (PY) 1999 Title II-C funds to Fiscal Year (FY) 1999 Title II-B funds and vice versa. Funds are transferred in total (i.e., without regard to cost limits), and SDAs must use the funds in accordance with the appropriate Title II-B or Title II-C rules of the receiving title or part. The FY 1999 Title II-B funding in your G965XXX master subgrant can only be transferred to the same subgrant's Title II-C component (after April 1, 1999) and vice versa.

Eligibility:

As in prior years, SDAs may conduct planning and intake prior to the beginning of the vacation period. ***See JTPA Directive D97-7: Eligibility Determination and Verification for Titles II, III, and IV-C.***

Compensation:

The provisions under the amendments to the Fair Labor Standards Act (FLSA), which resulted in the federal Minimum Wage Increase Act of 1996, apply to all participants enrolled in programs operated under JTPA. In addition, the state Living Wage Act of 1996 (Section 1182.11 to the California Labor Code) raised California's minimum wage to \$5.75 per hour. ***Therefore, those individuals enrolled in wage-paid JTPA activities must be paid not less than \$5.75 per hour.*** The Youth Subminimum Wage created by the federal Minimum Wage Increase Act, \$4.25 an hour for the first 90 days a youth under 20 is initially employed, does not apply to JTPA programs.

The 1999 SYETP participants may be compensated for both worksite and classroom activities. Participants do not have to spend more than half of their time for combined activities in the worksite setting in order to receive compensation as do Title II-C participants. The SYETP employees engaged in work activities where there is an employer-employee relationship shall be paid training payments that comply with the Federal Labor Standards Act, and any state and local laws governing wage payments. When participants are paid wages, they are subject to normal withholding of taxes applicable to similarly situated employees. While TEGL 14-98 is silent on whether training payments for classroom activities, and bonuses and incentives are taxable, the state recommends that these payments be treated as taxable income unless an SDA obtains a waiver from the Internal Revenue Service (IRS) for its specific situation.

Regarding payment for work experience, DOL has stated that the IRS is solely responsible for determining whether any given compensation is subject to social

security taxes. While the IRS has not issued blanket guidance about whether work experience is subject to any deductions under the Federal Insurance Contributions Act (FICA), the state recommends that these deductions be made unless an SDA obtains a waiver from the IRS for its specific situation.

For classroom training activities, participants may be:

- Paid training payments at the same level as payments for work experience and subject to the same rules governing the payment of wages, or
- Provided with training payments equal to work-based training payments--or less, or
- Provided with incentive and bonus payments only--or in addition to the previously mentioned payments, or
- Paid nothing at all.

If an SDA plans to use bonus and incentive payments, this intention must be clearly stated in its two-year plan. Use of these payments must be indicated under two separate sections in the plan:

- ***Title II Assessment, Referral, Services, Competencies, C, 2., n. and Services, subsection (3), paragraph (c) Incentive and Bonus Payments.***

Reporting:

The Title II-B allocations provided with this directive are for FY 1999. For expediency, the state will issue these funds to the SDAs through master subgrant (G965XXX) under the new grant code 335. Cash drawdowns can be made immediately upon processing of the SDA's subgrant and its Job Training Plan adjustment or modification. These funds must be accounted for separately from all other Title II funds for PY 98-99. More detailed reporting requirements for all funding sources will be provided by the state under a separate transmittal.

Reference Materials:

The Department of Industrial Relations (DIR), Division of Labor Standards Enforcement has published the California Child Labor Law: 1998 pamphlet citing pertinent state law applicable to youth programs. This pamphlet may be downloaded from the DIR's Internet site at:

http://www.dir.ca.gov/DIR/Labor_Law/DLSE/childlabor.htm

The DOL offers a wide variety of program literature for summer youth programs. Even though JTPA rules will apply to the SYETP for the final time this summer, the information may be useful in developing the program design for a summer youth component under the Workforce Investment Act. Several of the publications can be downloaded from DOL's Summer Youth Programs Internet home page at:

<http://www.wdsc.org/summeryouth/>

ACTION:

This directive requires immediate implementation.

INQUIRIES:

Please direct any questions regarding this directive to your program manager at (916) 654-7799 or to Charles Kilbourne of the Policy Unit at (916) 653-9270.

/S/ BILL BURKE
Assistant Deputy Director

Attachment

*****FORMATTED FOR ELECTRONIC TRANSMISSION*****

<p style="text-align: center;">U.S. Department of Labor Employment and Training Administration Washington, D.C. 20210</p>	CLASSIFICATION
	SYETP
	CORRESPONDENCE SYMBOL
	TDC
	DATE
	March 26, 1999

TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 14-98

TO: ALL STATE JTPA LIAISONS
ALL STATE WORKER ADJUSTMENT LIAISONS
ALL STATE WAGNER-PEYSER ADMINISTERING AGENCIES
ALL ONE-STOP CAREER CENTER SYSTEM LEADS

FROM: DAVID HENSON
Director
Office of Regional Management

SUBJECT: Program Guidance for the Calendar Year 1999 Summer Youth Employment and Training Program

1. Purpose. To provide States with program guidance for the Calendar Year (CY) 1999 Summer Youth Employment and Training Program (SYETP); and to provide advice to States and service delivery areas (SDAs) on how to transition their summer programs to align with Workforce Investment Act (WIA) requirements.

2. References.

- a. The Job Training Partnership Act (JTPA), as amended;
- b. JTPA Final Rules, as published in the **Federal Register** on September 2, 1994;
- c. The Workforce Investment Act of 1998;
- d. Training and Employment Guidance Letter (TEGL) No. 2-97 (February 19, 1998), Instructions for Submission of Consolidated State Plans under Title II and Title III of the Job Training Partnership Act for Program Years (PYs) 1998 and 1999; and PY 1998 Wagner-Peyser Planning Guidance;
- e. TEGL 4-97 (March 9, 1998), Program Guidance and Allocations for the Calendar Year 1998 Summer Youth Employment and Training Program;
- f. Training and Information Notice (TEIN) No. 6-98 (August 6, 1998), Safety in the Summer Youth Employment and Training Program;
- g. TEGL No. 7-95, Change 1, (December 4, 1998), Job Training Partnership Act (JTPA) Intertitle Transfers of Funds";

RESCISSIONS	EXPIRATION DATE
None	Continuing

DISTRIBUTION

- h. TEGL No. 11-98, JTPA Allotments for Program Year (PY) and Calendar Year (CY)1999; Wagner-Peyser Preliminary Planning Estimates for PY 1999;
- i. Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)), as amended by the Minimum Wage Increase Act of 1996;
- j. Employment Service Program Letter No. 2-99 (Nov. 5, 1998) Reauthorization of Work Opportunity Tax Credit Program and Authorization of the Tax Credit Program for the Welfare-to-Work Tax Credit; and
- k. TEIN No. 35-97 (April 28, 1998), Technical Assistance Guide (TAG) for Providing Educational Services in the Summer Youth Program.

3. **Background.** The employment and training system is transitioning from the Job Training Partnership Act (JTPA) to the Workforce Investment Act (WIA). WIA substantially reforms and places new emphasis on serving youth within a comprehensive statewide workforce development system. Under WIA, youth programs will be linked more closely to local labor market needs and the community as a whole, and will provide a stronger connection between academic and occupational learning. Services for youth under WIA shift to comprehensive services with summer youth training as one component of the local area's youth services strategy. WIA encourages local decision making concerning policy, youth program design, the proportion of funding for each program element, and determining appropriate program offerings for each individual youth. A youth council, newly established under WIA, is given the responsibility to guide youth policy in the local area and to coordinate youth services.

Summer programs operated this year will be funded under the JTPA appropriations, using JTPA rules. WIA funds will not be appropriated for the summer employment opportunities program until Fiscal Year 2000. For the summer of 1999, determinations will need to be made regarding the amount of Title II-B and II-C funds to be used for the 1999 summer activities, including the transfers to or from the II-C program and carryover funds from previous years.

Program operators are encouraged to begin developing strategies for comprehensive programs infused with principles such as preparation for postsecondary opportunities, linkages between academic and occupational learning, and connections to the local job market in their youth systems. Early WIA implementers are especially encouraged to review the new WIA design requirements and begin building these program design features into their youth programs.

4. **Allotments and Transfers.** Allotments were provided to the system via TEGL No. 11-98, dated February 17, 1999. For 1999, JTPA appropriations language allows for both Title II-B Summer Youth Employment and Training Program and Title II-C Year-Round Youth Training Program funds to be available for obligation on April 1, 1999. The Title II-B and Title II-C programs are still authorized as separate programs in 1999. However, this early obligation of funds will allow States to begin making expenditures in advance of the upcoming Summer Youth Program, as well as facilitate the move toward a consolidated youth funding stream.

As in previous years, SDAs, with approval of the Governor, retain the authority to transfer up to 100% of the funds between the two programs. This transfer authority, as well as judicious marshaling of carry-over funds, may be used to begin to prepare for full implementation of WIA.

5. **Program Goals/Objectives.** The Employment and Training Administration (ETA) has established an interim Government Performance Results Act (GPRA) goal for JTPA Title II-B for CY 1999. The actual goal will be established based upon results from this year's program. As a temporary baseline measure, at least 50% of disadvantaged youth participating in academic enrichment will retain or enhance their basic skills in addition to working at summer jobs.

Other goals and objectives for States and SDAs which are appropriate for this summer under JTPA, and are consistent with the transition to WIA, are to:

- a. Encourage school retention or completion. States and SDAs are urged to develop activities which encourage youth to return to school or enroll in alternative school programs.
 - b. Improve participants academic performance, including mathematics and reading comprehension. Local service deliverers are encouraged to ensure that participants, at the very least, maintain the same level of basic educational skills over the summer.
 - c. Improve employability skills. Participants should have experiences which introduce them to the world of work and help them develop basic workplace skills with the goal of increasing their employability. Ideally, by the end of the summer, participants will show improvement in both academic and workplace skills.
 - d. Strengthen integration of summer youth program with year-round youth programs, Job Corps, School-to-Work and other related employment and training activities.
 - e. Strengthen linkages. Service deliverers are urged to strengthen linkages with the local labor market, and design programs to meet local community needs.
 - f. Work with the private sector to provide more unsubsidized employment opportunities for economically disadvantaged youth.
6. **Program Elements.** WIA identifies ten required youth program elements which must be available through local programs. However, local programs will have the discretion to determine what specific services a youth will receive based upon the youth's objective assessment and individual service strategy. These required program elements can be grouped around four major themes:
- improving educational achievement (including such elements as tutoring, study skills training, and instruction leading to secondary school completion, including drop out prevention strategies, and alternative school offerings);
 - preparation for and success in employment (including summer jobs, paid and unpaid work experience, and occupational skills training);

- supports for youth (including meeting supportive services needs, providing mentoring, follow-up services, and comprehensive guidance and counseling); and
- services intended to develop the potential of youth as citizens and leaders (including leadership development opportunities).

States and SDAs are encouraged to the extent possible, to begin building these program design features into their programs. The traditional elements of the JTPA summer youth program are a good base to build upon. These elements are explained in some detail below.

- a. **Objective Assessment and Individual Services Strategy.** The requirements of objective assessment have been clearly specified in the JTPA statute (as amended by the Goals 2000: Educate America Act) and the final JTPA regulations. ETA will not recommend any particular assessment device; it is the responsibility of the SDAs to utilize effective assessment instruments. SDAs are urged to consult with their local school systems to determine which measurements of educational achievements are most appropriate and useful to both the individual SDAs and local school systems.
- b. **Work Experience.** Work experience continues to be one of the most effective components in the summer program. All States and SDAs should ensure that worksites introduce and/or reinforce the rigors, demands, rewards, and sanctions associated with holding a job. Documented learning experiences should be an integral part of the youth's work experience.

ETA strongly recommends that all participants, including 14 and 15-year olds, spend time on an actual job. If an SDA has an education-only program design, the SDA must provide an explanation in the job training plan as to why such a design is the most effective strategy for the youth involved.

In addition, States should encourage SDAs to incorporate the following activities into their summer program planning agendas:

- (1) provide work maturity training to youth before sending them to youth worksites. This will help address employers concerns regarding placement of youth ages 14-15, who are generally not equipped with behavioral skills and appropriate conduct necessary to function on actual jobs; and
- (2) to the extent possible, we recommend that SDAs provide employers with all relevant information available pertaining to youth assigned to their worksites.

- c. **Academic--Basic Educational Skills Enrichment.** States should inform SDAs that improving, enhancing and documenting performance outcomes of participants enrolled in academic enrichment activities is a high priority.

Findings from a recent ETA pilot study conducted by Social Policy Research Associates (SPR) reveal that the key to assessing the learning gains of youth receiving academic enrichment is determined by the definition of academic

enrichment. ETA has addressed this concern by redefining academic enrichment. States and SDAs should use the following definition when planning training curricula under the academic component.

Definition-- the operational definition of basic educational skill enrichment is the enhancement of the traditional educational skills of reading, mathematics, and writing attained through classroom or project-based learning methods.

SDAs should consider using project-based learning as an instructional strategy that contributes to academic learning. Using this approach, participants plan, implement, complete and evaluate a valuable, real-life project. In this approach, learning, content, and process are totally integrated. Well conceived, learning-rich projects include competencies, basic skills, academic content, specific vocational and occupational skills, work maturity skills, life skills and citizenship skills.

SPR also found that SDAs have diverse programmatic objectives for academic enrichment and conduct a wide variety of training activities under this component. Subsequently, it was determined that a single measurement instrument is not the best methodology for assessing skills learned in the academic enrichment training. The skills learned in academic enrichment training may be assessed through a variety of instruments rather than one prescribed assessment instrument. Therefore, States and SDAs are encouraged to assess skill gains for youth using measurement instruments of their choice. ETA will not recommend any particular testing protocol, however, we encourage SDAs to select assessment instruments that have been identified as appropriate tools for measuring skills attained in the academic enrichment training component of the summer program.

States and SDAs must have some methodology for assessing gains for youth in the academic enrichment component and will report the percentage of youth who gained, maintained or lost skills during the summer. Further instructions will follow in the Reporting Guidance.

- d. Follow-up Services.** Follow-up services receive greater emphasis under WIA as they are now one of the ten required program elements. All youth participants must receive some form of follow-up services for a minimum duration of twelve (12) months. The types of services provided and the duration of services must be determined based on the needs of the individual youth. The scope of these follow-up services may be less intensive for youth who have only participated in summer youth employment opportunities. Under JTPA such services may be provided for up to one year if the Individual Service Strategy indicates that such services are appropriate.
- e. Integrating Academics and Occupational Learning.** There are two inter-related principles associated with the integration of work and learning; learning SCANS foundation skills and competencies within the context of performing work on an actual job. ETA continues to promote linking work and learning.

In the fall of 1998, ETA provided training to the employment and training system on strategies for designing and delivering enriched, project-based learning activities. The purpose of the training sessions was to inform SDAs on strategies for connecting work and learning in the SYETP. Linking academics and occupational learning remains a high priority area. Local service providers are encouraged to include project-based learning activities, linking classroom training and work experiences in their training curricula. In addition, lessons learned by School-to-Work (STW) local partnerships may be a source of appropriate project-based learning strategies.

7. **Linkages.** Under JTPA, SDAs are required to establish linkages with the appropriate educational agencies responsible for services to participants. In previous policy guidance, ETA has encouraged the establishment of linkages with School-to-Work and the Year-round Youth programs in particular. While the establishment of these linkages under JTPA continues to be encouraged, the requirement for linkages is broadened even more under WIA. WIA charges local boards with the responsibility for establishing appropriate linkages to entities that foster the participation of eligible youth. These linkages may include connections to local area justice and law enforcement officials, local public housing authorities, local education agencies, Job Corps representatives, and representatives of other area youth initiatives. In addition, youth councils are required to establish linkages with other organizations serving youth in the local area.

Local program operators are encouraged to continue linkages already established and use this summer to strengthen linkages with organizations and entities in the local area offering services to youth where such linkages have not yet been established.

8. **Private Sector Summer Jobs Effort.** States and SDAs are encouraged to seek every opportunity to involve the private sector in cooperative and creative approaches to fund community-wide summer jobs programs. Across the country private sector summer jobs initiatives are voluntarily undertaken by community coalitions to increase the number of jobs available for young people during the summer. Through these initiatives, private sector employers are encouraged to support summer jobs by hiring young people, making financial donations for job creation in the public sector or donating time and resources to further such efforts.

The Private Industry Council plays a major role in most private sector campaigns, serving as the coordinator of the planning group and providing office space and staff support. Business representatives, the Employment Service, community-based organizations, schools and local government agencies are also typically partners in this effort.

Title II-B funds may be used to support private sector programs which are not limited to just JTPA eligible youth within the following parameters. JTPA funds can be used for activities including the following where States and SDAs are working with local businesses to plan private sector programs: planning employer outreach, recruitment, intake, eligibility determination for community-wide summer jobs programs that serve JTPA eligible and non-eligible youth. In order to prevent audit

questions, however, the ratio of JTPA funded staff to non-JTPA funded staff should be proportionate to the ratio of JTPA eligible youth to non-eligible youth served.

9. **Work Opportunity Tax Credit (WOTC) Program.** All States and SDAs are strongly encouraged to work with local business leaders in strengthening the coordination with the private sector in creating unsubsidized summer job opportunities for economically disadvantaged youth. States and SDAs should utilize the WOTC program to aid them in their private-sector Summer Youth outreach efforts. The WOTC is federal income tax incentive to encourage private-sector employers to hire eight targeted groups of job seekers with barriers to employment.

For the employer to qualify for a tax credit under WOTC, a summer youth employee must have attained age 16 but not 18 on the hiring date (or, if later, on May 1), reside in one of the 105 federally designated Empowerment Zones or Enterprise Communities, have never worked for the employer before, and perform services for the employer between May 1 and September 15. Further, for the employer to qualify for the tax credit, the eligible employee must be employed for at least 20 days or 120 hours.

Employers must apply for and receive certification from their State employment agency that their new hire is a member of a WOTC target group before they can claim the tax credit on their federal income tax return. State Employment Service Agencies (SESAs) are responsible for certifying new hires as qualifying employers for the WOTC. For more information about this tax credit, SESA WOTC Coordinators or the U.S. Employment Services should be contacted.

10. **Job Safety and Health.** States are encouraged to provide SDAs training and/or written materials on workplace safety rules and regulations. SDAs should share safety information with worksite supervisors before youth are placed at designated worksites. States and SDAs are also reminded to review Federal, State and local safety standards and child labor restrictions. This will help to ensure that participants are not assigned to job activities which violate the standards and/or restrictions.
11. **Minimum Wage.** The provisions under the amendments to the Fair Labor Standards Act (FLSA), which resulted from the Minimum Wage Increase Act of 1996, apply to all participants enrolled in programs operated under JTPA. The FLSA minimum rate referred to in sections 142(a)(2) and (3) of JTPA is the currently applicable rate set forth in section 6(a)(1) of the FLSA which is \$5.15. Individuals employed in activities authorized under the Act shall be paid wages not less than \$5.15 an hour.
12. **Oversight.** Specific information regarding the monitoring and reporting requirements will be forwarded separately. Monitoring and reporting instructions will be revised to collect data on skill gains for youth enrolled in academic enrichment.
13. **Action.** States should: (a) transmit this guidance to SDAs as expeditiously as possible; and (b) instruct SDAs to quickly provide relevant guidance to worksites and service providers.
14. **Inquiries.** Questions on this TEGL should be directed to your Regional Office.